



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 30, 1994

Mr. David A. Talbot, Jr.
General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR94-314

Dear Mr. Talbot:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 26511.

The Office of the Governor received an open records request for "notes, memos, correspondence, computer messages or other material sent to, or by, the governor" and certain of her staff "to or from employees in the Texas Office of State-Federal Issues in Washington, D.C., for the period of March 1, 1994 through May 5, 1994." You contend that one document coming within the ambit of the request is protected by section 552.103 of the Government Code.

You explain that the document at issue directly relates to settlement negotiations between the State of Texas and the United States Department of Energy (the "DOE") relating to the state's recovery of costs incurred in the development and possible dismantling of the Superconducting Supercollider. Section 552.103(a) of the Government Code excepts from required public disclosure information

(1) relating to litigation of a civil or criminal nature or *settlement negotiations*, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection. (Emphasis added.)

We have examined the document at issue and agree that because it clearly relates to ongoing settlement negotiations between the state and the DOE, the Office of the Governor may withhold this record at this time under section 552.103(a). *Cf.* Open Records Decision No. 311 (1982) (statutory predecessor to section 552.103 properly invoked when governmental body seeks to acquire easement through good faith negotiations, but may have to resort to condemnation proceedings).

If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script that reads "Margaret A. Roll".

Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/RWP/rho

Ref.: ID# 26511

Enclosure: Submitted document

cc: Mr. John R. Gravois
The Houston Post
Washington Bureau
1206 National Press Building
Washington, D.C. 22045
(w/o enclosure)